

IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI

SHELIA R. JOHNSON-PERKINS

PLAINTIFF

VS.

CAUSE NO. 12-cv-2128

REBECCA JOHNSON ESTATE,
PEARLINE JOHNSON ESTATE,
ET. AL.

DEFENDANTS

ORDER VACATING EASEMENT AND
ALTERING AN REVISING PLAT

This cause came on for hearing on Petition to Alter and Revise Plat filed herein by the Plaintiff, upon Default Judgment having been entered on December 10, 2012 against the following defendants, PEARLIE PERKINS, JERRYLINE JOHNSON, POLLY MAE JOHNSON, JESSIE EARL JOHNSON, ROBERT JOHNSON, ESSIE JOHNSON, MICHAEL ARNOLD, MAE BELL ARNOLD, JOSIE LEE COWAN, JAMES JOHNSON, GEORGE JOHNSON, JR., BETTY JOHNSON, and ROXIE JOHNSON JAMESON, and service of process now complete upon all defendants and the Court being fully advised in the premises does hereby find as follows:

The Plaintiff, Shelia R. Johnson-Perkins, is an adult resident citizen of the State of Mississippi whose address is 14200 Johnson Cove, Olive Branch, Mississippi, 38654.

The Defendant, Rebecca Johnson departed this life on or about March 18, 2008. That her sole and only heirs at law are her children, namely: Pearlie Perkins, Betty Johnson, Mary Perkins, Rachel Owens, George Johnson, Jr., and James Johnson.

FILED
JAN 02 2013
W E DAVIS, CLERK

SMITH PHILLIPS

The Defendant, Pearlie Perkins, is an adult resident citizen of the State of Mississippi who was served with process at 1754 Deer Creek Road, Byhalia, Mississippi, 38611 and Default Judgment was entered.

The Defendant, Betty Johnson, is an adult resident citizen of the State of Mississippi who was served with process at 7244 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, George Johnson, Jr., is an adult resident citizen of the State of Mississippi who was served with process at 7244 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, James Johnson, is an adult resident citizen of the State of Mississippi who was served with process at 7244 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Pearline Johnson departed this life in early 2012. That her sole and only heirs at law are her children, namely: Roxie Johnson Jameson, Essie Johnson, Robert Johnson, Jessie Earl Johnson, Polly Mae Johnson, Jerryline Johnson, and Richard Johnson.

The Defendant, Roxie Johnson Jameson, is an adult resident citizen of the State of Mississippi who was served with process at 6574 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Essie Johnson, is an adult resident citizen of the State of Mississippi who was served with process at 7252 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Robert Johnson., is an adult resident citizen of the State of Mississippi who was served with process at 7252 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Jessie Earl Johnson, is an adult resident citizen of the State of Mississippi who was served with process at 7252 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Polly Mae Johnson, is an adult resident citizen of the State of Mississippi who was served with process at 7252 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Jerryline Johnson., is an adult resident citizen of the State of Mississippi who was served with process at 7201 Hunters Horn, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Josie Lee Cowan, is an adult resident citizen of the State of Mississippi who was served with process at 7312 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered.

The Defendant, Michael Arnold, is an adult resident citizen of the State of Mississippi who was served with process at 7320 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered. That the ownership and title to Lot 1 is not affected by this action, however, since Mr. Arnold is the owner and the Lot is a part of the Rebecca Johnson Subdivision he is included as a necessary party.

The Defendant, Mae Bell Arnold, is an adult resident citizen of the State of Mississippi who was served with process at 7320 Center Hill Road, Olive Branch, Mississippi, 38654 and Default Judgment was entered. That the ownership and title to Lot 1 is not affected by this

action, however, since Mrs. Arnold is the owner and the Lot is a part of the Rebecca Johnson Subdivision she is included as a necessary party.

The names, addresses, post office addresses, street addresses, whereabouts, and places of abode of Mary Perkins, Rachel Owens, Richard Johnson, any other heirs at law of the Rebecca Johnson and Pearline Johnson and any other Executors or Administrators, devisees or legatees of Rebecca Johnson and Pearline Johnson are unknown to the Plaintiff after having made diligent search and inquiry to ascertain the same, and the Plaintiff makes such unknown persons defendants to this Petition. That, accordingly, process by publication may be had upon such parties in interest in the manner and for the time required by law and has been completed.

The Defendants, all interested parties claiming an interest in Lots 1, 2, 3, 4 and 5, Rebecca Johnson Subdivision located in Section 28, Township 1 South, Range 5 West, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 19, Page 24, in the office of the Chancery Clerk of DeSoto County, Mississippi may be served with process by publication pursuant to Mississippi Rules of Civil Procedure which has been completed.

Shelia R. Johnson-Perkins is the record title owner of the property known as Lot 4, Rebecca Johnson Subdivision located in Section 28, Township 1 South, Range 5 West, DeSoto County, Mississippi, as per plat thereof recorded in Plat Book 19, Page 24, in the office of the Chancery Clerk of DeSoto County, Mississippi.

The Defendants named herein have some interest in the property described herein whether by mortgage, lien, current ownership and/or prior ownership or by way of an ingress/egress easement over the property, and/or rights to easements as shown on the plat of record.

That jurisdiction and venue is property herein as the property is located in DeSoto County, Mississippi.

The following is a delineation of the title of the interests of the Plaintiffs and Defendants herein:

Date	Grantor	Grantee	Property	Deed Bk// Pg
11-12-98	Sacred Heart Southern Missions Housing Corp.	Michael Arnold Mae Bell Arnold	Lot 1	343/766
11-10-78	George Johnson Rebecca Johnson	Josie Lee Cowan	Lot 2	137/574
10-27-80	George Johnson Rebecca Johnson	Josie Lee Cowan	Lot 2	151/30 Correction
11-1-78	George Johnson Rebecca Johnson	Pearline Johnson	Lot 3	137/405
10-15-99	Rebecca Johnson	Shelia R. Johnson- Perkins	Lot 4	362/666
01-01-62	Willie B. Crutcher	Rebecca Crutcher Nka Rebecca Johnson	Lot 5	53/73

That at the time of the conveyances by George Johnson and Rebecca Johnson for the property herein a 30' wide ingress/egress easement was granted to the owners of Lot 2, Lot 3, and Lot 4. Said easement was over Lots 4 and 5 as shown on the plat of record in the DeSoto County Chancery Clerk's Office Plat Book 19, at page 24.

That since the conveyance to Lot 2 in 1980 and Lot 3 in 1978 and Lot 4 in 1999 the 30' wide ingress/egress easement across Lots 4 and 5 has never been used as access to these three lots nor any other lot.

That Lots 2, 3, and 4 all have access to their property by all three being located with road frontage on a public road, namely Johnson Cove.

That during the past 34 years the owners of Lot 2 and 3 have never accessed their property using the 30' wide ingress/egress easement.

Further, the Defendant owners of Lot 3 in 2012 put in a new driveway accessing their property from Johnson Cove, a public road in DeSoto County, Mississippi.

There is no continuing necessity for any lot in this subdivision to have an ingress/egress easement over Lots 4 and 5.

That the easement for ingress/egress across Lots 4 and 5, Rebecca Johnson Subdivision as recorded in Plat Book 19, Page 24 was never vacated and remains viable, even though the subsequent and current property owners have direct access to their property by way of dedicated roads and streets.

Furthermore, the Plat was not recorded when the owners of Lots 2 and 3 obtained title to their property. Therefore, their deeds need to be revised to reflect that the easement has been vacated, abandoned and held for not.

That the Plat Book 19, Page 24 reflects a private drive through the middle of the five lots. This private drive is now a public dedicated road, known as Johnson Cove.

That the owner, Shelia R. Johnson-Perkins, Plaintiff, is desirous in requesting that the easement for ingress/egress easement shown on Plat Book 19, Page 24 and recorded in Deed Book 137, Page 574 and Deed Book 151, Page 30 and Deed Book 137, Page 405 be vacated, abandoned and held for not.

IT IS THEREFORE FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. That the 30' wide ingress/egress easement shown on Plat Book 19, Page 24 and recorded in Deed Book 137, Page 574 and Deed Book 151, Page 30 and Deed Book 137, Page

405, as recorded in the Office of the Chancery Clerk of DeSoto County, Mississippi is hereby vacated, removed and abandoned;

2. That the Chancery Clerk of DeSoto County, Mississippi is directed to make notations on the referenced Plat Book 19, Page 24 of this order that vacates, removes and abandons the 30' wide ingress/egress easement shown therein;

3. That the Deeds recorded in Deed Book 137, Page 574 and Deed Book 151, Page 30 and Deed Book 137, Page 405 reflecting the said 30' wide ingress/egress easement as recorded in the Office of the Chancery Clerk of DeSoto County, Mississippi are hereby conformed to reflect that the 30' wide ingress/egress easement is vacated, removed and abandoned. The Chancery Clerk of DeSoto County, Mississippi is directed to make notations in the margins of these deeds reflecting this order vacating, removing and abandoning the 30' wide ingress/egress easement shown therein;

4. That pursuant to MRCP 54(b) it is directed that this order is to be entered as a final judgment as it is found there is no just reason to delay said entry.

5. That a certified copy of this Default Judgment shall be recorded in the land deed records of the DeSoto County Chancery Clerk's Office.

SO ORDERED, ADJUDGED, AND DECREED, this the 2nd day of January, 2013.

Vicki B. Cobb
CHANCELLOR

Presented by:

Rebecca S. Thompson

Rebecca S. Thompson, MSB #9763
SMITH, PHILLIPS, MITCHELL,
SCOTT & NOWAK, LLP
Attorneys for the Plaintiff
P.O. Box 346
Hernando, MS 38632 662-429-5041



STATE OF MISSISSIPPI, COUNTY OF DESOTO
I HEREBY CERTIFY that the above and foregoing is
a true copy of the original filed in this office.
This the 2nd day of January, 2013
W.E. Davis, Clerk of the Chancery Court
By *W.E. Davis* D.C.